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**State of Utah**  
**DEPARTMENT OF NATURAL RESOURCES**  
**Division of Water Rights**

MICHAEL R. STYLER      KENT L. JONES  
Executive Director      State Engineer/Division Director

**STATE OF UTAH**  
**DIVISION OF WATER RIGHTS**

IN THE MATTER OF:

CAINEVILLE CANAL COMPANY  
C/O John Jackson  
HIC 70 BOX 40  
CAINEVILLE, UT 84734

Respondent.

MEASURING DEVICE NOTICE

No. SEAA 1320

TO: Caineville Canal Company,

On April 21, 2009, Division of Water Rights staff conducted an inspection of your diversion and measuring system. This inspection indicated that the water measurement facilities in place at the time of the inspection are adequate for a proper water regulation and distribution by the water commissioner. There is an existing 3ft Parshall flume on the canal. Because of the nature of the **Lower Fremont Distribution System**, the lower portion of the Fremont River must be upgraded to real time monitoring to insure Caineville is distributed water according to its water rights and at the same time the water users on the upper reaches of the distribution system also receive water according to their water rights.

Section 73-5-4 of the Utah Code Annotated, 1953 as amended by Chapter 311, in the 2008 General Session, states in part:

**73-5-4. Controlling works and measuring devices.**

(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, except as provided by Subsection (4), shall construct or install and maintain controlling works and a measuring device at:

- (a) each location where water is diverted from a source; and
- (b) any other location required by the state engineer.

(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.

(3) The state engineer shall approve the design of:

- (a) the measuring device; and
- (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works.

(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:

- (a) forbid the use of water until the user complies with the state engineer's requirement; and
- (b) commence enforcement proceedings authorized by Section **73-2-25**.

Due to the remoteness of the area and the significant distances and time involved to monitor flow at the Caineville diversion, it will require significant effort by the water commissioner to determine and regulate the flow and delivery of water. In order to provide more reasonable and timely access to the water measurement data it is necessary that an automated-real time telemetry system be installed at the measuring point. This system is necessary to provide a more complete and accurate record of diversion amounts and enable better water management on the Lower Fremont River.

**Therefore, you are hereby notified that Caineville Diversion must be equipped with functional and accurate measuring devices as provided below and with automated telemetry equipment that will suitably interact with the Division of Water Rights automated data gathering system. These improvements must be completed prior to April 1, 2010.**

Specifically, your Parshall Flume should have an automated system in place for monitoring.


If Caineville requires technical assistance to install the required telemetry equipment please contact our office. We have qualified staff that can assist in the installation of necessary equipment and the automation process. The cost of the equipment is the responsibility of the Hanksville Canal Company.

The telemetry system must be capable of automatically transferring data to the Division of Water Rights web site on a real time basis. Water Rights staff have the ability of creating a data repository and photo archive that is publicly accessible on the Water Rights web site. This will create an operating record for your diversion and allow the commissioner and water users to access diversion information on a real time basis, enabling better management of the water commissioner's distribution efforts on the Lower Fremont River.

**These improvements must be completed prior to April 1, 2010.** If compliance is not achieved by this date, an Order to Cease the Use of Water may be issued by the State Engineer. In this event the diversion will be tagged, closed, and locked by the water commissioner. Removing the tag or tampering with the locked headgate will constitute a violation and enforcement proceedings will be commenced according to sections 73-2-25 and 73-2-26.

Thank you for your cooperation in attending to this matter in a timely manner. If you have any questions concerning this notice, please contact Mike Silva, Distribution Engineer by phone at 801-538-7430 or by e-mail at [MikeSilva@Utah.Gov](mailto:MikeSilva@Utah.Gov) or Kirk Forbush, Regional Engineer, by phone at 435 896-4429 or by e-mail at [KirkForbush@utah.gov](mailto:KirkForbush@utah.gov).

Dated this 20<sup>th</sup> day of July 2009

  
Mike Silva  
Distribution Engineer

cc: Distribution File  
Kirk Forbush, Regional Engineer  
Rebecca Taft, Water Commissioner